

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 1-9 and 13-18 are in this case. Claims 1, 3, 4 and 7-9 have been rejected under § 102(b). Claims 2, 5, 6 and 13-18 have been rejected under § 103(a). In order to simplify the issues before the Examiner, independent apparatus claims 1 and 7, and their dependent claims 2-6, 8, 9, 16 and 17, have now been canceled without prejudice. Independent method claim 13 has been amended. The remaining dependent claims 14, 15 and 18 remain unchanged.

Request for Continued Examination (RCE)

This response is being filed together with a Request for Continued Examination (RCE). In view of the RCE, the Applicant respectfully requests that the finality of the previous action be withdrawn, and that the current amendment be entered and given new consideration.

Amendment to Claim 13

A minor amendment to claim 13 has been made to delete one limitation added in the previous amendment. The limitation in question was added in anticipation that it would focus certain issues argued in the previous response. However, the limitation in question is superfluous to the point of novelty, as will be clear from the arguments submitted below.

§ 102(b) & § 103(a) Rejections – Claims 1-9, 16 and 17

The Examiner has rejected claims 1, 3, 4 and 7-9 under § 102(b) as being anticipated by Schlamp (US 5,431,250). The Examiner has also rejected claims 2, 5,

6, 16 and 17 under § 103(a) as being unpatentable over Schlamp, alone or in combination with one or more of Byrley (US 4,735,290), Tracy et al. (US 5,979, 757) and Official Notice. The Examiner's rejections are respectfully traversed

While continuing to traverse the Examiner's rejections, in order to simplify the issues before the Examiner, the Applicant has chosen to cancel independent apparatus claims 1 and 7, and their dependent claims 2-6, 8, 9, 16 and 17, without prejudice, thereby rendering moot the Examiner's rejection of these claims.

**§ 103(a) Rejections – Claims 13-15 and 18**

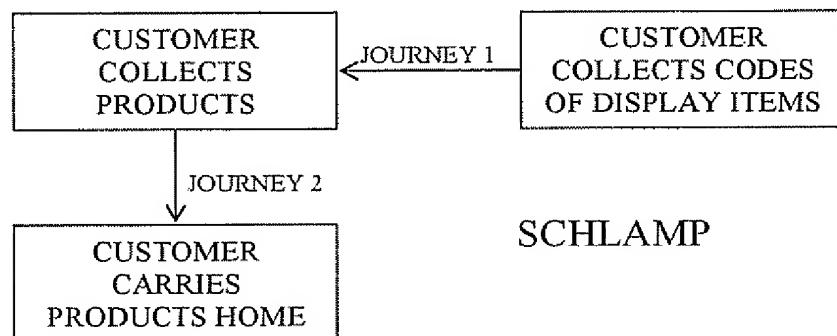
The Examiner has rejected claims 13-15 and 18 under § 103(a) as being unpatentable over Schlamp in view of Tracy et al. (US 5,979, 757), and in the case of claim 15, further in view of Official Notice. The Examiner's rejections are respectfully traversed

By way of introduction, the Applicant wishes to point out that the present invention is a shopping method which combines three essential features to provide a highly efficient and pleasurable shopping experience for the consumer and for the retailer:

- A "conventional" or "hands-on" shopping format in which the customer selects sample items which are a physical representation of the products available for sale;
- Geographic separation between product display and product storage/dispensing in order to allow efficient use of real estate in areas of high cost and/or limited space; and
- Avoiding impact of the aforementioned separation on customer convenience by providing a delivery-based scheme which renders the customer independent of the storage/dispensing facility's location.

The method of Schlamp and its inefficiency were discussed at length in the previous response filed February 8, 2006. In the interest of conciseness, this discussion will not be repeated here.

The Examiner has acknowledged on page 9 of the Final Rejection that "Schlamp does not disclose receiving delivery instructions from a customer and transferring [the delivery] instructions to a warehouse and packing facility." In other words, it is agreed that the teachings of Schlamp require the customer, after visiting the downtown "sample shop", to physically collect the products from the warehouse and carry them home. This functionality may be represented graphically as follows

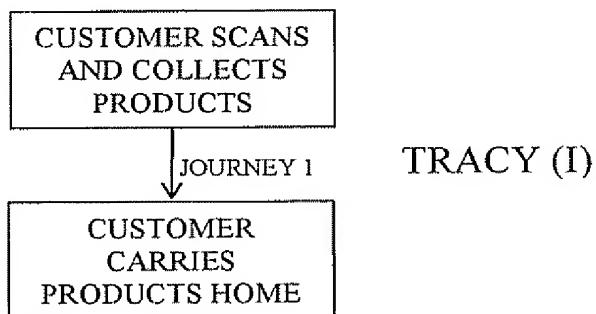


The customer according to this scheme has benefited nothing, since he still needs to travel from the store to the pick-up point and then lug his purchases home.

The Examiner has stated that the Tracy et al. reference: (a) relates to a similar method, and (b) discloses a customer providing a delivery time and location. The Examiner has further stated (c) that it would be obvious to modify the teachings of Schlamp according to the teachings of Tracy et al. to obtain the method of claim 13. The Applicant respectfully submits that these statements are based upon an incorrect or incomplete understanding of the Tracy et al. reference, as will now be detailed.

Firstly, contrary to the Examiner's statement (a), Tracy et al. relates primarily to a conventional store in which the customer collects the actual products from the shelves and adds them to a shopping cart. To this, Tracy et al. adds a portable terminal

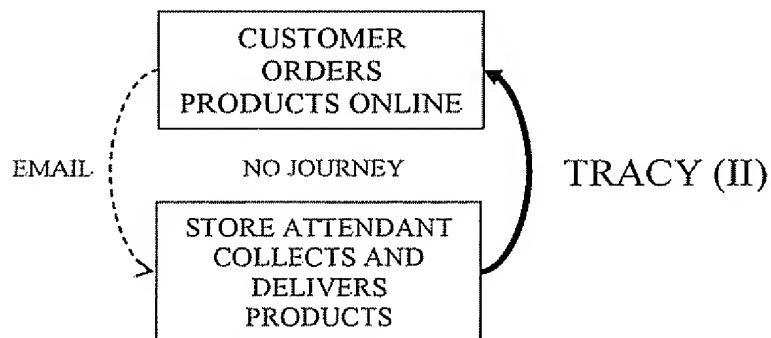
which provides automated check out functions as well as advertisements and other peripheral services. However, the underlying functionality of the shopping process remains the conventional cart-based approach in which storage and dispensing functions are integrated with the product display. This may be seen from the reference to a shopping cart in column 4, lines 42-46, and is further clear from the reference to weighing products and generating an adhesive bar coded ticket (column 7, line 66 through column 8, line 1). Thus, the customer is clearly collecting the actual products directly from the shelves while using the system. The underlying functionality of this primary embodiment of Tracy et al. is therefore a completely standard shopping functionality which can be represented graphically as follows.



Thus, Tracy et al. does not relate to a method “similar” to the present invention or to Schlamp, but rather to a conventional shopping system with addition of a data collection terminal, similar to the references described on page 4 in the background to the present invention

Turning now to the Examiner’s citation for a customer providing “*a delivery time window and location*”, for this the Examiner has referred to column 15, lines 56-59 of Tracy et al. In doing so, the Examiner seems to have overlooked that this part of the document (from column 14, line 48 through column 16, line 21) is referring to a different mode of functionality in which orders are placed by customers from home, such as via email

Thus, specifically, the lines of Tracy et al. cited by the Examiner refer to “*the delivery system described above*” This refers to the delivery system described from column 14, line 48 through column 15, line 16 according to which a previous purchase list is made available to the customer “*on a customer's PC*” (col. 14, line 50) for editing to form a shopping list. Home delivery is described in the case that this list is then submitted electronically (col. 15, lines 17 onwards) Thus, the entire section of Tracy et al. referred to by the Examiner relates to functionality of conventional online shopping which can be represented schematically as follows:



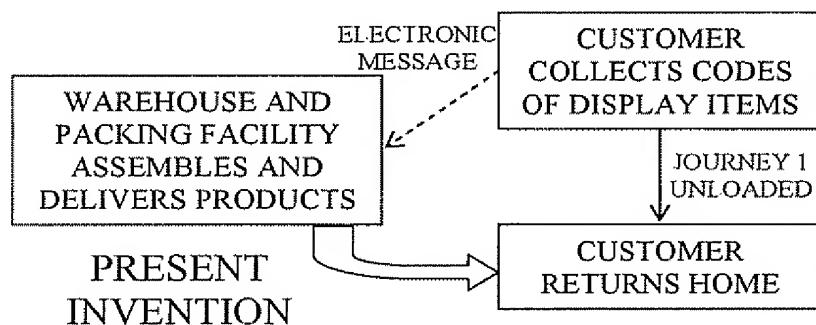
in which “*the customer selection of items is made through a graphical user interface*” (col. 15, lines 1-3). Tracy et al. does not teach compilation of a shopping list by collecting codes of physical items in a store for subsequent delivery, and certainly not of codes taken from sample items not themselves for sale.

It is also important to note that, throughout the Tracy et al. reference, the purchased products are taken directly from the display shelves in a conventional manner, thereby tying together the display and dispensing functions, in stark contrast to the teachings of the present invention.

Turning now to the combination proposed by the Examiner, looking collectively at the three schemes proposed above by the cited references (one of Schlamp and two modes of operation of Tracy et al.), there is no readily apparent logical manner of combining teachings of Tracy et al. regarding delivery of products

ordered online with the teachings of Schlamp regarding products selected by a customer in a sample store. One familiar with the teachings of Schlamp would find no relevance in the online-ordering functionality of Tracy et al. which would lead to any modification of Schlamp's scheme. Similarly, the in-store shopping scheme of Tracy et al. would also not be helpful, since it relates to a conventional shopping-cart-based process and does not even refer to a delivery service.

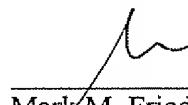
Furthermore, the present invention achieves separation which is neither taught nor suggested by any of the references between the customer and the warehouse and packaging function, thereby rendering the customer independent of the location of the warehouse and packaging facility. This functionality of the present invention may be represented graphically as follows.



In summary, in the field of "hands-on" shopping, where sample items are physically available to the customer for viewing, none of the cited references, considered alone or in combination, teaches receiving a shopping list created by collecting from sample items purchase codes of consumable items together with delivery instructions, thereby allowing freedom of placement of a warehouse and packaging facility independent of both the store location and the customer location.

In view of the above arguments, it is respectfully submitted that independent claim 13, and hence also dependent claims 14, 15 and 18, are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

  
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